

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD DALE WRIGHT, JR.,

Defendant.

Case No. 2:21-CR-0031-TOR

PROTECTIVE ORDER RE: CHILD
PORNOGRAPHY FORENSIC
REVIEW

BEFORE THE COURT is a Stipulation Regarding Computer Forensic Review Procedures For Child Pornography Contraband filed by the United States. The stipulation was submitted for consideration without oral argument. Having reviewed the record and the files therein, the Court is fully informed.

For good cause shown, the Court grants the stipulation and orders as follows:

1. IT IS ORDERED that 18 U.S.C. § 3509(m) applies to this case, and the Court is required to deny defense requests to copy, photograph, duplicate, or otherwise reproduce material constituting child pornography if the government makes the material reasonably available to Defendant and provides an ample opportunity for the defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

2. IT IS FURTHER ORDERED that, in order to comply with 18 U.S.C. § 3509(m), and to allow Defendant the greatest opportunity to prepare an effective defense in preparation for trial in this matter, the government will make a true forensic, bit-by-bit E01 image of devices and media containing alleged child pornography

1 contraband at issue in the above-referenced case. The government will make that
2 forensic image reasonably available to Defendant and provide ample opportunity for the
3 defense team to examine it at a government facility in Spokane, Washington. The
4 parties may readdress the Court if there is a need for additional or after-hours access
5 during the course of litigation or additional forensic review.

6 3. IT IS FURTHER ORDERED that the defense forensic examination will be
7 conducted in an interview room monitored by closed-circuit television (“CC-TV”),
8 without audio feed. While the TV with non-audio feed will ensure the integrity of FBI
9 space and security of its occupants, the video feed is not of sufficient detail or at an
10 angle that would reveal defense strategy. The government and its agents expressly agree
11 that no attempt will be made to record any audio from the workstation and that no
12 attempt will be made to observe the defense team’s work product or computer monitor
13 screen at any time. The defense expert may review the feed to ensure that defense
14 strategy is not being compromised at any time while conducting the forensic review.

15 4. IT IS FURTHER ORDERED that the defense team¹ shall not make, nor
16 permit to be made, any copies of the alleged child pornography contraband pursuant to
17 this Protective Order and shall not remove any contraband images from the government
18 facility. The defense expert will be allowed to copy any file that is not contraband and
19 compile a report (without contraband images/videos) documenting the examination on
20 removable media at the discretion of the defense expert.

21 5. IT IS FURTHER ORDERED that the defense expert and investigator will
22 leave at the government facility any equipment, including hard drives, which contain
23 child pornography contraband that is identified during forensic evaluation.

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25 ¹ For purposes of this Protective Order, the term “defense team” refers solely to
26 Defendant’s counsel of record (“defense counsel”), Defendant’s designated expert
27 (“defense expert”), and a defense investigator.
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1 6. IT IS FURTHER ORDERED that for the purpose of trial, the government
2 agrees to make available a digital copy of any government trial exhibit that contains
3 contraband, which will be kept in the custody and control of the case agent. Upon
4 reasonable notice by the defense, the case agent will also maintain for trial digital copies
5 of any proposed defense exhibit that contains contraband. If the defense team intends to
6 offer, publish, or otherwise utilize any government or defense exhibit contained on the
7 digital copy maintained by the case agent during trial, the case agent shall assist the
8 defense team in publishing or utilizing the exhibit that contains contraband upon
9 notification by the defense team.

10 IT IS SO ORDERED. The District Court Executive shall enter this Order and
11 provide copies to counsel.

12 DATED March 18, 2021.



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THOMAS O. RICE
United States District Judge